

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

**In Re: LARRY EDWARD WOOD and
JESSICA ANN WOOD,
Debtors.**

**Case No. 5:18-bk-50048
Chapter 7
Adv. Proc. No. _____**

**LARRY EDWARD WOOD and
JESSICA ANN WOOD,
Plaintiffs,**

v.

**U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT (HUD),
Defendant.**

COMPLAINT TO AVOID LIEN UNDER SECTION 522(H)

NOW COME the Debtors/Plaintiffs, Larry Edward Wood and Jessica Ann Wood, and for their Complaint against the Defendant, U.S. Department of Housing and Urban Development (HUD), hereby state as follows:

1. That the Debtors/Plaintiffs, Larry Edward Wood and Jessica Ann Wood, are at all times relevant hereto, citizens of Raleigh County, West Virginia and are the Debtors in this bankruptcy case filed on the 21st day of March, 2018.

2. That the Defendant, U.S. Department of Housing and Urban Development (HUD), is an agency of the United States government, and is a named creditor in the bankruptcy case.

3. This is an action to avoid a judicial lien pursuant to 11 U.S.C. § 522(f).

4. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1334(b). This is a proceeding arising in or related to a case under title 11 of the United States Code.

5. This is a core proceeding under 28 U.S.C. § 157.

6. On or about the 21st day of December, 2015, U.S. Department of Housing and Urban Development (HUD) issued a Notice of Intent to Collect by Treasury Offset against the Debtors/Plaintiffs, Larry Edward Wood and Jessica Ann Wood, requiring the U.S. Department of the Treasury to offset monies that the federal government owed the Debtors/Plaintiffs and remit the said monies ultimately to U.S. Department of Housing and Urban Development (HUD).

7. Within Ninety (90) days of commencement of this case, U.S. Department of Housing and Urban Development (HUD) caused Six Thousand Eighty Six Dollars (\$6,086.00) in federal tax refunds and Three Hundred Sixteen Dollars (\$316.00) in state tax refunds of the Debtors/Plaintiffs to be offset pursuant to the said Notice of Intent to Collect by Treasury Offset.

8. The monies seized by U.S. Department of Housing and Urban Development (HUD) pursuant to their Notice of Intent to Collect by Treasury Offset within Ninety (90) days of the commencement of this case are property which the Debtors/Plaintiffs could have exempted under 11 USC Section 522(D)(5) had the same been recovered by the Trustee under 11 USC Section 522(G).

9. Transfer of such property to U.S. Department of Housing and Urban Development (HUD) was not voluntary, and the Debtors/Plaintiffs did not conceal such property. The transfer affected by such offset was for the benefit of U.S. Department of Housing and Urban Development (HUD), on account of an antecedent debt owed by the Debtors/Plaintiffs. Within Ninety (90) days from the date of the filing of the Petition herein, while the Debtors/Plaintiffs were insolvent, this transfer of Debtors'/Plaintiffs' federal and state tax refund was made, and enabled U.S. Department of Housing and Urban Development (HUD) to receive more than it would have received if such transfer had not been made and such creditor received payment of the dividend on its claim in this case.

Wherefore, the Debtors/Plaintiffs, Larry Edward Wood and Jessica Ann Wood, pray for the return of the property described in this Complaint, to wit, federal tax refund in the amount of Six Thousand Eighty Six Dollars (\$6,086.00) and state tax refund in the amount of Three Hundred Sixteen Dollars (\$316.00); or cancellation of Respondent's lien thereof, and for costs and attorney's fees, and for such other relief is just.

**LARRY EDWARD WOOD and
JESSICA ANN WOOD
By Counsel,**

/s/William R. Wooton
William R. Wooton, Esquire (WVSB No. 4139)
WOOTON & WOOTON
210 Main Street
Beckley, WV 25801
Phone No. (304) 253-2222
Fax No. (304) 255-5041